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PATNA HIGH COURT

NOTIFICATION

16th October 2023

**ADDENDA AND CORRIGENDA TO
THE RULES OF THE HIGH COURT AT PATNA, 1916
(Fifth Edition)
C.S. No. – 177**

No. 598 (R)/Rules Department--In exercise of the powers conferred by sub-section (1) of Section 34 read with sub-section (2) of Section 16 of the Advocates Act, 1961 (Act No. 25 of 1961), and in the light of the minutes dated 17.03.2021 of Hon'ble Permanent Committee that “paragraph 35 of the judgment dated 12.10.2017 shall be considered as part of the Rules of the High Court of Judicature at Patna (Designation of Senior Advocates) Rules 2019” as well as in light of judgment dated 12.05.2023 passed by Hon'ble Supreme Court in M.A. Nos.709/2022, 1502/2020; IA Nos.58694/2022, 74393/2020, 75687/2021 in Writ Petition (C) No.454 of 2015 (Ms. Indira Jaising Vs Supreme Court of India, through Secretary General), the High Court of Judicature at Patna hereby makes the following amendments in “the High Court of Judicature at Patna (Designation of Senior Advocates) Rules, 2019” (Chapter XXIV-A of the Rules of the High Court at Patna, 1916) :-

[A] By making **insertion in the existing Rule 11 of the point-based format** as prescribed in Paragraph 35 (VII) of the judgment dated 12.10.2017 **passed in Writ Petition (Civil) No.454 of 2015 (Ms. Indira Jaising Versus Supreme Court of India, through Secretary General) with its modifications** as ordered in the judgment dated 12.05.2023 passed in M.A. Nos.709/2022, 1502/2020; IA Nos.58694/2022, 74393/2020, 75687/2021 in Writ Petition (C) No.454 of 2015 by

Hon'ble Supreme Court, by way of **bifurcating Rule 11 in two parts i.e. (a) and (b)**.

(i) Part **(a)** shall comprise the Rules from **beginning till the word 'assessment'**, thereafter the following words and Chart depicting the point-based format shall be added:

"on the basis of a point-based format indicated below:

Sl. No.	Matter	Points
1.	<i>Number of years of practice of the applicant advocate from the date of enrollment.</i> <i>[1 point for every year of practice between 10-20 years of practice; 20 points for practice beyond 20 years]</i>	20 points
2.	<i>Judgments (reported and unreported) which indicate the legal formulations advanced by the concerned advocate in the course of the proceedings of the case; pro bono work done by the advocate concerned; domain expertise of the applicant advocate in various branches of law, such as Constitutional law, Inter-State water Disputes, Criminal law, Arbitration law, Corporate law, Family law, Human Rights, Public Interest Litigation, International law, law relating to women, etc.</i>	50 points
3.	<i>Publications by the applicant advocate</i>	5 points
4.	<i>Test of personality and suitability on the basis of interview/ interaction</i>	25 points

(ii) The **rest** part of Rule 11 shall comprise under Part **(b)** after **replacing** the word **'and'** (which is just after the word **'assessment'**) with the words **'After making overall assessment, the Committee shall'**.

[B] In 5th line of Rule 12, just after the words **'such secret ballot,'** the words **'the reason for the same shall be recorded and'** shall be inserted.

Rules 11 & 12 in existence	Rules 11 and 12 after Proposed amendments						
11. The Committee shall examine each proposal/ recommendation/ application for designation as Senior Advocate in the light of the materials on record including the materials provided by the Secretariat and the suggestions/ views of the members of the Bar and other stakeholders. The Committee shall after holding interview/ interaction with the Advocate concerned, make an overall assessment and place the proposals/ recommendations/ applications for designation, before the Full Court for consideration, along with its recommendations.	<p>11.(a) The Committee shall examine each proposal/ recommendation/ application for designation as Senior Advocate in the light of the materials on record including the materials provided by the Secretariat and the suggestions/ views of the members of the Bar and other stakeholders. The Committee shall after holding interview/ interaction with the Advocate concerned, make an overall assessment on the basis of a point-based format indicated below:</p> <table border="1"> <thead> <tr> <th>Sl. No.</th> <th>Matter</th> <th>Points</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td><i>Number of years of practice of the applicant advocate from the date of enrollment.</i> <i>[1 point for every year of practice between 10-20 years of practice; 20 points for practice beyond 20 years]</i></td> <td>20 points</td> </tr> </tbody> </table>	Sl. No.	Matter	Points	1.	<i>Number of years of practice of the applicant advocate from the date of enrollment.</i> <i>[1 point for every year of practice between 10-20 years of practice; 20 points for practice beyond 20 years]</i>	20 points
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	2. <i>Judgments (reported and unreported) which indicate the legal formulations advanced by the concerned advocate in the course of the proceedings of the case; pro bono work done by the advocate concerned; domain expertise of the applicant advocate in various branches of law, such as Constitutional law, Inter-State water Disputes, Criminal law, Arbitration law, Corporate law, Family law, Human Rights, Public Interest Litigation, International law, law relating to women, etc.</i>	50 points
	3. <i>Publications by the applicant advocate</i>	5 points
	4. <i>Test of personality and suitability on the basis of interview/ interaction</i>	25 points
(b) After making overall assessment, the Committee shall] place the proposals/ recommendations/ applications for designation, before the Full Court for consideration, along with its recommendations.”		
12. A proposal/recommendation/application for designation as a Senior Advocate shall be considered as accepted by the Full Court if majority of the Judges present and voting, vote in favour of such proposal/ recommendation/ application. Voting by secret ballot will be resorted to, only if the situation so warrants and even in case of holding of such secret ballot, the proposal/ recommendation/ application for designation as a Senior Advocate shall be considered as accepted, [if the Judges present and voting by not less than two-third majority], vote in favour of the proposal/ recommendation/ application.	12. A proposal/recommendation/application for designation as a Senior Advocate shall be considered as accepted by the Full Court if majority of the Judges present and voting, vote in favour of such proposal/ recommendation/ application. Voting by secret ballot will be resorted to, only if the situation so warrants and even in case of holding of such secret ballot, the reason for the same shall be recorded and the proposal/ recommendation/application for designation as a Senior Advocate shall be considered as accepted, [if the Judges present and voting by not less than two-third majority], vote in favour of the proposal/ recommendation/ application.	

By order of the Court

Dated 16th October, 2023.

Adm. (Rules) Department

RUDRA PRAKASH MISHRA,

Registrar General.

(AFTER AMENDMENT)

The Chapter XXIV-A of the Rules of the High Court at Patna, 1916 titled “Rules framed by the High Court of Judicature at Patna in exercise of the powers conferred under Section 15(2) [sic 16(2)] of the Advocates Act, 1961” is hereby repealed and substituted by the following Rules with immediate effect:-

In exercise of the powers conferred by Sections 16(2) and 34(1) of the Advocates Act, 1961 (Central Act 25 of 1961), the High Court of Judicature at Patna hereby makes the following Rules regarding designation of an Advocate as a Senior Advocate:-

RULES

1. (a) These Rules shall be called "The High Court of Judicature at Patna (Designation of Senior Advocates) Rules, 2019."
 - (b) These Rules shall come into force at once.
 - (c) The term "High Court" wherever appears shall mean the High Court of Judicature at Patna.
2. The High Court may designate an Advocate as a Senior Advocate, if in its opinion, by virtue of his/her ability, standing at the Bar, or special knowledge or experience in law, the said Advocate deserves conferment of such distinction.
3. An Advocate may be considered for being designated as a Senior Advocate:
 - (a) On his/her name being proposed by the Chief Justice or any other Judge of the High Court of Judicature at Patna;
 - (b) On his/her name being recommended by any two designated Senior Advocates practising in the High Court ¹[and not more than two such names shall be recommended by a designated Senior Advocate in selection process.]
 - (c) On application made by the Advocate concerned, endorsed by two designated Senior Advocates practising in the High Court ² [and these two designated Senior Advocates shall not recommend more than two applications in a selection process.]
4. An advocate shall be considered for being designated as a

¹ Inserted by C.S. No. 168

² Inserted by C.S. No. 168

Senior Advocate only if he/she has actually practised as an Advocate for not less than ten years in the High Court.

5. The Advocate whose name is proposed/recommended for being designated as a Senior Advocate/who applies for being designated as a Senior Advocate, should be an income-tax assessee for a minimum period of ten (10) years and shall submit copies of income tax return for the last three financial years ³[and the average net income from profession shall not be less than Rs. ⁴[5 lakhs (five lakhs)] for the said three years.]
6. (a) Proposals for designation of an Advocate as a Senior Advocate by a Judge of the High Court of Judicature at Patna shall be addressed to the Chief Justice. Recommendations by Senior Advocates and applications by Advocates shall be addressed to the Registrar General and shall contain the particulars set out in the proforma in Annexure A to these rules, which shall be enclosed with the application.
(b) The written consent of the Advocate concerned shall accompany the proposal/recommendation for designation as a Senior Advocate along with a declaration by the Advocate concerned that no proposal/ recommendation/ application to designate him/her as a Senior Advocate has been rejected by the Supreme Court of India or the High Court of Judicature at Patna and/or any other High Court in India, within a period of two years immediately preceding the date of the proposal/ recommendation/ application.
(c) If the proposal for designation of an Advocate as a Senior Advocate is made under Clause (a) of Rule 3 above, the particulars mentioned in Rule 6(a) shall be obtained from the Advocate concerned, by the Secretariat mentioned in Rule 7(b) of these Rules. In the case of recommendations made under clause (b) and applications filed under clause (c) of Rule 3 above, the particulars mentioned in

³ Inserted by C.S. No. 168

⁴ Amended by C.S. No. 169

Rule 6(a) shall be supplied by the Advocate concerned.

(d) Canvassing in any form shall disqualify the Advocate concerned from being designated.

7.(a) The proposal/recommendation/application for designation as a Senior Advocate shall be processed by a Permanent Committee of the High Court known as the "**Committee for Designation of Senior Advocates**" (hereinafter referred to as "the Committee" for short). The Permanent Committee will be headed by the Hon'ble the Chief Justice and consist of two senior-most Hon'ble Judges of this Court and the Learned Advocate General who will be the Members of this Permanent Committee. The above four Hon'ble Members of the Permanent Committee will nominate a Member of the Bar to be the fifth Member of the Permanent Committee.

(b) The Secretariat of the Registrar General of the High Court shall be the Secretariat of "the Committee" and the Registrar General of the High Court shall be the ex-officio Secretary of "the Committee".

(c) The Committee shall meet at least once in every calendar year.

8. The Secretariat of "the Committee" shall as soon as proposals/recommendations/applications for designation are received, cause a summary of the proposals/recommendations/applications for designation to be published on the official website of the High Court of Judicature at Patna and invite suggestions/views of the members of the Bar and other stakeholders in the matter, within 30 days from the date of publication. The suggestions/views shall be in writing, shall bear the name and full address of the sender and shall be addressed to the Registrar General of this High Court. Anonymous petitions/representations will not be entertained.

9. All proposals/ recommendations/ applications for designation as Senior Advocates shall be scrutinised by

the Secretariat of "the Committee", which shall collect relevant data and information with regard to the reputation, conduct and integrity of the Advocate concerned; verify the details regarding his/her participation in pro bono work (Legal Services Authority), if any; reported judgments in which he/she has appeared; the number of such judgments reported during the last five years and other matters referred to in the particulars furnished in terms of Rule 6(a) and submit a report to "the Committee" regarding every proposal/recommendation/application submitted for seeking designation.

10. The Secretariat of "the Committee" shall place the proposals/ recommendations/applications for designation before "the Committee" after the expiry of the period of 30 days from the date of publication of the proposals/recommendations/applications for designation on the official website of the High Court of Judicature at Patna.
11. (a) The Committee shall examine each proposal/recommendation/application for designation as Senior Advocate in the light of the materials on record including the materials provided by the Secretariat and the suggestions/ views of the members of the Bar and other stakeholders. The Committee shall after holding interview/interaction with the Advocate concerned, make an overall assessment on the basis of a point-based format indicated below:-

Sl. No.	Matter	Points
1.	<p><i>Number of years of practice of the applicant advocate from the date of enrollment.</i></p> <p><i>[1 point for every year of practice between 10-20 years of practice; 20 points for practice beyond 20 years]</i></p>	20 points
2.	<p><i>Judgments (reported and unreported) which indicate the legal formulations advanced by the concerned advocate in the course of the proceedings of the case; pro bono work done by the advocate concerned; domain expertise of the applicant advocate in various branches of law, such as Constitutional law, Inter-State water Disputes, Criminal law, Arbitration law, Corporate law, Family law, Human Rights, Public Interest Litigation, International law, law relating to women, etc.</i></p>	50 points

3.	<i>Publications by the applicant advocate</i>	5 points
4.	<i>Test of personality and suitability on the basis of interview/ interaction</i>	25 points

(b) After making overall assessment, the Committee shall place the proposals/ recommendations/ applications for designation, before the Full Court for consideration, along with its recommendations."

12. A proposal/recommendation/application for designation as a Senior Advocate shall be considered as accepted by the Full Court if majority of the Judges present and voting, vote in favour of such proposal/recommendation/ application. Voting by secret ballot will be resorted to, only if the situation so warrants and even in case of holding of such secret ballot, the reason for the same shall be recorded and the proposal/recommendation/application for designation as a Senior Advocate shall be considered as accepted, [if the Judges present and voting by not less than two-third majority], vote in favour of the proposal/ recommendation/ application.

13. A proposal/recommendation/application for designation which is not accepted by the Full Court can be considered afresh only after the expiry of a period of two years from the date on which the proposal/recommendation/ application was not accepted by the Full Court and that too, only on receipt of a fresh proposal/ recommendation/ application for such designation.

14.(a) The designation of an Advocate as a Senior Advocate shall be liable to be revoked, after due notice to him/her, in the event of the Advocate being found by the Bar Council of India/Bihar State Bar Council /Bar Council of any other State that he/she has committed professional/other misconduct or if the High Court is satisfied that he/she has violated all or any of the provisions of the Rules framed and issued by the High Court of Judicature at Patna under sub-section (1) of Section 34 of the Advocates Act, 1961. The designation shall also be liable to be revoked after due notice to the Senior Advocate concerned if he/she is guilty of any

misconduct which, in the opinion of the High Court, disentitles him/her to continue to be worthy of the designation or if he/she is convicted for an offence involving moral turpitude or for contempt of court. The proposal for revocation of designation shall be considered as accepted by the Full Court if two-third of the Judges present and voting, vote in favour of such revocation.

(b) Nothing contained in these rules shall stand in the way of an Advocate who has been designated by the High Court of Judicature at Patna as a Senior Advocate, from submitting an application to withdraw or recall his/her designation as a Senior Advocate. In the event of such an application addressed to the Registrar General being submitted, the Registrar General shall place it before the Chief Justice for appropriate orders thereon.

15. On the designation of an Advocate as a Senior Advocate or on the revocation or withdrawal of such designation, the Registrar General shall notify the said fact to the Registrar General, Supreme Court of India, the Bihar State Bar Council, the Bar Council of India, the Bar Council of other States in India and to all the District and Sessions Judges subordinate to the High Court of Judicature at Patna. The notification shall also be published on the official website of the High Court and a copy thereof communicated to the Judges of the High Court.

16. A record of all decisions relating to designation/revocation/ withdrawal of designation shall be maintained by the Secretariat of the Committee.

17. On the date of coming into force of these Rules, the Rules framed and issued by the High Court of Judicature at Patna under Section 16(2) of the Advocates Act, 1961, and appearing in Chapter XXIV of the Rules of the High Court of Judicature at Patna shall stand repealed and substituted.

18. All pending applications for designation shall be returned to the applicants concerned for applying afresh in accordance with these Rules. All pending proposals/recommendations for designation shall also be likewise returned.

ANNEXURE A

Affix recent
passport
size photo

PROFORMA

1. Name
2. Qualifications
3. Date of birth
4. Permanent Address
5. Address to which communications are to be sent.
6. Date of enrolment as Advocate
and place of enrolment
7. Number in the roll of Advocates
maintained by the State Bar Council.
8. Are you a member of any Association of Lawyers?
If so, give details.
9. Number of years of practice and in which Court?
10. Have you specialised in any field of law?
If so, give details.
11. Have you been a chamber junior to any lawyer?
If so, furnish the name of such
lawyer/lawyers and the duration.
12. Is any junior Lawyer attached to your chamber?
If so, furnish the name(s) of such lawyer(s)
and the duration.
13. (i) Since when have you been an
assessee under the Income Tax Act,
1961? Give income tax return of last
three financial years.
(ii) Permanent Account Number (PAN)-
14. Are you in any panel of lawyers or do
you hold office as State or Central
Government Pleader?
15. List of important cases in which
you have appeared as counsel.
16. Do you have to your credit any publication in any

Journal? If so, give details.

17. Have you attended any seminar/
conference relating to law?

18. Have you been a faculty member
of any Law College or Law
Department of any University
or Law University')

19. Has the Bar Council of India/ Bihar Bar
Council / Bar Council of any other State
found you guilty of misconduct or is any
such proceeding for misconduct
pending? If so, give details.

20. Have you been convicted for an offence
involving moral turpitude/is any such
proceeding pending against you'? If so,
give details.

21. Has any proposal/application for
designating you as a Senior Advocate been
made to the High Court of Judicature at
Patna or any other Court earlier? If so,
provide the details.

22. Are you ordinarily practising within the territorial
limits of the jurisdiction of the High Court of
Judicature at Patna?

23. Other information/particulars, if any,
including legal aid work.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

The Honourable Supreme Court in its judgment dated 12.10.2017 passed in W.P.(C) No. 454/2015 entitled Indira Jaising v. Supreme Court of India through Secretary General and others (AIR 2017 SC 5017), laid down norms/guidelines for designation of an Advocate as a Senior Advocate.

The High Court after considering the matter in detail decided to issue separate rules providing guidelines for designation of an Advocate as a Senior Advocate.

This notification is intended to achieve the above object.

**By Order of the Court,
RUDRA PRAKASH MISHRA,
*Registrar General.***

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